

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**STANDARD PROVISIONS AND REPORTING REQUIREMENTS
FOR
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT
AND
WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
EXISTING CONCENTRATED ANIMAL FEEDING OPERATIONS (MILK COW DAIRIES)**

____ 2004

A. Introduction:

1. These Standard Provisions and Reporting Requirements (SPRR) are applicable to concentrated animal feeding operations (CAFOs) that are regulated pursuant to the provisions of Title 27 California Code of Regulations (CCR) Division 2, Subdivision 1, Chapter 7, Subchapter 2, Sections 22560 et seq., and Title 40 Code of Federal Regulations (CFR) Parts 122, 123, and 412.
2. Any violation of the Order constitutes a violation of the Federal Clean Water Act and the California Water Code and, therefore, may result in enforcement action under either or both laws.
3. If there is any conflicting or contradictory language between the Order, the Monitoring and Reporting Program (MRP) associated with the Order, or the SPRR, then language in the Order shall govern over either the MRP or the SPRR, and language in the MRP shall govern over the SPRR.

B. Standard Provisions:

1. The requirements prescribed in the Order do not authorize the commission of any act causing injury to the property of another, or protect the Discharger from liabilities under federal, state, or local laws.
2. The Discharger shall comply with all federal, state, county, and local laws and regulations pertaining to the discharge of wastes from the facility that are no less stringent than the requirements of the Order.
3. All discharges from the facility must comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to storm drain systems or to other courses under their jurisdiction that are no less stringent than the requirements of the Order.
4. The Order does not convey any property rights or exclusive privileges.

5. In accordance with California Water Code Section 13263(g), *“No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.”*
6. The provisions of the Order are severable. If any provision of the Order is held invalid, the remainder of the Order shall not be affected.
7. The Discharger shall take all reasonable steps to minimize any adverse impact to the waters of the State resulting from noncompliance with the Order. Such steps shall include accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance.
8. The fact that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the Order shall not be a defense for violations of the Order by the Discharger.
9. The filing of a request by the Discharger for modification, revocation and reissuance, or termination of the Order, or notification of planned changes or anticipated noncompliance, does not stay any condition of the Order.
10. The Order is not transferable to any person except after notice to the Regional Board. The Regional Board may modify or revoke and reissue the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the Clean Water Act or California Water Code.
11. The Discharger shall provide to the Executive Officer, within a reasonable time, any information which the Executive Officer may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating the Discharger’s coverage under the Order or to determine compliance with the Order. The Discharger shall also provide to the Executive Officer upon request, copies of records required to be kept by the Order.
12. After notice and opportunity for a hearing, the Order may be terminated or modified for cause, including but not limited to:
 - a. Violation of any term or condition contained in the Order;
 - b. Obtaining the Order by misrepresentation, or failure to disclose fully all relevant facts;
 - c. A change in any condition that results in either a temporary or permanent need to reduce or eliminate the authorized discharge; or
 - d. A material change in the character, location, or volume of discharge.
13. The Order may be modified if new federal or state statutes or regulations are promulgated, and if more stringent applicable water quality standards are approved pursuant to Part 303 of

the Clean Water Act, or Title 27 of the CCR, or as adopted into the Regional Board *Water Quality Control Plans* (Basin Plans) *for the Sacramento River and San Joaquin River Basins (4th Ed)*, and *for the Tulare Lake Basin (2nd Ed.)*. The Order may also be modified for incorporation of land application plans, and/or changes in the waste application to cropland.

14. The Regional Board may review and revise the Order at any time upon application of any affected person or by motion of the Regional Board.
15. The Discharger shall ensure compliance with existing and or future promulgated standards for discharge.
16. The Discharger shall permit representatives of the Regional Board and the State Water Resources Control Board (State Board), upon presentations of credentials at reasonable hours, to:
 - a. Enter premises where wastes are treated, stored, or disposed and where any records required by the Order are kept;
 - b. Copy any records required to be kept under terms and conditions of the Order;
 - c. Inspect facilities, equipment (monitoring and control), practices, or operations regulated or required by the Order; and
 - d. Sample, photograph, and/or video tape any discharge, waste, waste management unit, or monitoring device.
17. The Discharger shall properly operate and maintain in good working order any facility, unit, system, or monitoring device installed to achieve compliance with the Order. Proper operation and maintenance includes best practicable treatment and controls, and the appropriate quality assurance procedures.
18. Animal waste storage areas and containment structures shall be designed, constructed, and maintained to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, washout, overtopping, by-pass, and overflow.
19. Ponds that are used for wastewater and are lined shall be designed under the direct supervision of a qualified professional. Designs shall include a Construction Quality Assurance Plan, the purpose of which is to ensure that the pond is constructed to comply with applicable sections of Title 27 CCR, Division 2, Chapter 7, Subchapter 2, and any more stringent requirements of the Order. Any county or local standards for pond construction and installation more stringent than those contained in Title 27, shall be implemented by the Discharger.
20. Materials used to construct pond liners shall have appropriate physical and chemical properties to ensure containment over the operating life of the pond.

21. Prior to removal of solids from any lined pond used for wastewater, a qualified professional shall provide written procedures intended to ensure that the pond liner is not damaged when the solids are removed.
22. Setbacks or separation distances contained under Water Wells, Section 8, Part II, in the *California Well Standards, Supplemental Bulletin 74-90 (June 1991)*, and *Bulletin 94-81 (December 1981)*, California Department of Water Resources (DWR), shall be maintained for the installation of all groundwater supply wells at new or existing CAFOs. A setback of 100 feet from existing supply wells shall be required for the installation of all manured areas in the production area at new CAFOs. A minimum setback of 25 feet, or other control structures (such as housing, berming, grading), shall be required for the protection of existing wells or new wells installed in the cropland. If a county or local agency adopts more stringent setback standards than that adopted by the DWR, then these local standards shall supercede the Well Standards of DWR, and the Discharger shall comply with the more stringent standards.
23. Setbacks or other compliance alternatives as specified in Title 40 CFR, Part 412.4(c)(5) shall be maintained for the application of manure and process wastewater. Manure and process wastewater shall not be applied closer than 100 feet to any downgradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters, unless a 35-foot wide vegetated buffer is substituted for the 100-foot setback or alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions achieved by the 100-foot setback.
24. The construction and destruction of groundwater supply and monitoring wells, as identified in the standards under *Water Wells* and *Monitoring Wells* in the *California Well Standards Bulletin 74-90 (June 1991)* and *Bulletin 94-81 (December 1981)*, shall be required for new and existing CAFOs. Should any county or local agency adopt more stringent standards than that adopted by the DWR, then these local standards shall supercede the Well Standards of DWR, and the Discharger shall comply with the more stringent standards.
25. All monitoring wells shall be constructed in a manner that maintains the integrity of the monitoring well bore hole and prevents the well from acting as a conduit for pollutant/contaminant transport. The sampling interval of each monitoring well shall be appropriately screened and fitted with an appropriate filter pack to enable collection of representative groundwater samples.
26. Following any storm event that causes the freeboard of any wastewater holding pond to be less than 1-foot for below-grade ponds, or 2-feet for above-grade ponds, the Discharger shall take action as soon as possible to provide the appropriate freeboard in the wastewater holding pond.

27. Safeguards against electric power failure shall be:

- a. Provided by the Discharger to assure that the facility will remain in compliance with the terms and conditions of the Order, should there be reduction, loss, or failure of electric power. Safeguards may include standby generators, alternate power sources, standby pumps, additional storage capacity, or modified operating procedures.
- b. Subject to the approval of the Executive Officer, and upon request by the Executive Officer, a written description of safeguards shall be provided.
- c. Provided by the Discharger, should the Regional Board advise the Discharger in writing that the safeguards are inadequate. Within 90 days of such notification, the Discharger shall identify a schedule for providing safeguards that, in the event of reduction, loss, or failure of electric power, enable the Discharger to comply with the terms and conditions of the Order. The schedule of compliance shall, upon approval of the Regional Board, become a condition of the Order.

C. General Reporting Requirements:

1. The Discharger shall give advance notice to the Regional Board of any planned changes in the ownership of the facility, or of any planned changes in the waste management activities at the facility that may result in noncompliance with the Order.
2. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of the Order by letter, a copy of which shall be immediately forwarded to the appropriate Regional Board office listed below in the General Reporting Requirements C.11.
3. To assume operation under the Order, any succeeding owner or operator must request, in writing, that the Executive Officer transfer coverage under the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the persons responsible for contact with the Regional Board and a responsibility statement. The statement shall comply with the signatory paragraph of the General Reporting Requirement C.7 below and state that the new owner or operator assumes full responsibility for compliance with the Order and that the new owner or operator will implement the Waste Management Plan prepared by the preceding owner or operator. Transfer of the Order shall be approved or disapproved in writing by the Executive Officer. The succeeding owner or operator is not authorized to discharge under the Order and is subject to enforcement until the date of the writing whereby the Executive Officer transfers coverage.
4. The Executive Officer may require the Discharger to submit technical reports pursuant to the Order and Section 13267 of the California Water Code.
5. The Discharger shall identify any information that may be considered to be confidential under state and federal law and not subject to disclosure under the Public Records Act. The Discharger

shall identify the basis for confidentiality. If the Executive Officer cannot identify a reasonable basis for treating the information as confidential, the information will be placed in the public file and the Discharger will be notified. Otherwise, if the Executive Officer receives a request for the information claimed confidential, the Executive Officer will notify the Discharger that the information will be placed in the public file unless the Regional Board receives, within 10 calendar days, a written request from the Discharger to keep the information confidential containing a satisfactory explanation supporting the information's confidentiality.

6. Except for data determined to be exempt from disclosure under the Public Records Act (California Government Code Sections 6275 to 6276), and data determined to be confidential under Section 13267(b)(2) of the California Water Code, all reports prepared in accordance with the Order and submitted to the Executive Officer shall be available for public inspection at the offices of the Regional Board. Data on waste discharges, water quality, meteorology, geology, and hydrogeology shall not be considered confidential.
7. All technical reports and monitoring program reports shall be signed by a person identified below:
 - a. For a sole proprietorship: by the proprietor;
 - b. For a partnership: by a general partner;
 - c. For a corporation: by a principal executive officer of at least the level of senior vice-president; or
 - d. A duly authorized representative if:
 - (1) The authorization is made in writing by a person described in Subsection a, b, or c of this provision;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility, such as the position of manager. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and
 - (3) The written authorization is submitted to the Regional Board.
8. All technical reports required in the Order that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by, or under the direction of, and signed by persons registered to practice in California pursuant to California Business and Professions Code, Sections 6735, 7835, and 7835.1. To demonstrate compliance with Title 16 CCR, Sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

9. The Discharger shall file a Report of Waste Discharge with the Regional Board at least 180 days before making any material change in the character, location, or volume of the discharge. A material change includes, but is not limited to, the following:
 - a. The addition of a new wastewater that results in a change in the character of the waste;
 - b. Significantly changing the disposal method or location;
 - c. Significantly changing the method of treatment; and/or
 - d. Increasing the discharge flow beyond that specified in the Order.
10. Each person signing a report required by the Order or other information requested by the Regional Board shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

11. All reports shall be submitted to the following address:

For facilities in Fresno, Kern, Kings, Madera, Mariposa, and Tulare counties, submit reports to:

California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, CA 93706
Attention: Confined Animal Regulatory Unit

For facilities in Butte, Lassen, Modoc, Plumas, Tehama, and Shasta counties, submit reports to:

California Regional Water Quality Control Board
Central Valley Region
415 Knollcrest Drive, Suite 100
Attention: Confined Animal Regulatory Unit
Redding, CA 96002

For facilities in all other counties, submit reports to:

California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114
Attention: Confined Animal Regulatory Unit

D. Requirements Specifically for Monitoring Programs and Monitoring Reports:

1. The Discharger shall file self-monitoring reports and/or technical reports in accordance with the detailed specifications contained in the MRP attached to the Order.
2. The Discharger shall maintain a written monitoring program sufficient to assure compliance with the terms of the Order. Anyone performing monitoring on behalf of the Discharger shall be familiar with the written program.
3. The monitoring program shall include observation practices, sampling procedures, and analytical methods designed to ensure that monitoring results provide a reliable indication of water quality at all monitoring points.
4. All instruments and devices used by the Discharger for the monitoring program shall be properly maintained and shall be calibrated at least yearly to ensure their continued accuracy.
5. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, instrumentation monitoring records, copies of all reports required by the Order, and records of all data used to complete the reports. Records shall be maintained for a minimum of five years from the date of sample, measurement, report, or application. Records shall also be maintained any time after CAFO operations cease but wastes that pose a threat to water quality remain at the site. This five year period may be extended during the course of any unresolved litigation regarding the discharge or when requested by the Regional Board Executive Officer.
 - a. Records of on-site monitoring activities shall include the:
 - (1) Date that observations were recorded, measurements were made, or samples were collected;
 - (2) Name and signature of the individual(s) who made the observations, made and recorded the measurements, or conducted the sampling;
 - (3) Location of measurements or sample collection;
 - (4) Procedures used for measurements or sample collection;

- (5) Unique identifying number assigned to each sample; and
 - (6) Method of sample preservation utilized.
- b. Records of laboratory analyses shall include the:
- (1) Results for the analyses performed on the samples that were submitted;
 - (2) Chain-of-custody forms used for sample transport and submission;
 - (3) Form that records the date that samples were received by the laboratory and specifies the analytical tests requested;
 - (4) Name, address, and phone number of the laboratory which performed the analysis;
 - (5) Analytical methods used;
 - (6) Date(s) analyses were performed;
 - (7) Identity of individual(s) who performed the analyses; and
 - (8) Results for the quality control/quality assurance (QA/QC) program for the analyses performed.
6. For statistical analysis of data, the Discharger shall use one of the methods described in of Title 27 CCR Section 20415(e)(8)(A-E). A non-statistical data analysis method can be used if the method can achieve the goal of the particular monitoring program at least as well as the most appropriate statistical method. The Discharger shall use a statistical or nonstatistical data analysis method that complies with Title 27 CCR Section 20415(e)(7, 8, 9, and 10) to determine whether there has been a “measurably significant” increase at downgradient monitoring points relative to the upgradient monitoring point(s). For any given monitoring point at which a given constituent has already exhibited a measurably significant indication of a release at that monitoring point, the Discharger may propose to monitor the constituent at that point by using a concentration-versus-time plot.
7. The statistical test method used by the Discharger to analyze the monitoring data shall include a procedure to verify that there is “measurably significant” evidence of an increase at a downgradient monitoring point. The verification procedure shall include either a single “composite” retest (i.e., a statistical analysis that augments and reanalyzes the data from the monitoring point that indicated a release) or shall consist of at least two “discrete” retests (i.e., statistical analyses each of which analyzes only newly-acquired data from the monitoring point that indicated a release). The verification procedure shall comply with the requirements of Title 27 CCR Section 20415(e)(8)(E) in addition to the performance standards of Title 27 CCR Section 20415(e)(9).

E. Enforcement

1. California Water Code Section 13385(a) provides that any person who violates the Order or other specified, including a provision implementing Clean Water Act Sections 301, 302, 306, 307, 308, 318, or 405 shall be subject to civil liability. Administrative civil liability may range from a maximum of \$10,000 per day or \$25,000 per day of such violation. An additional liability of ten dollars (\$10) up to twenty-five dollars (\$25) per gallon may be imposed where there is a discharge of more than 1,000 gallons, any portion of which is not susceptible to cleanup or is not cleaned up.
2. California Water Code Section 13385(h)(1) provides that a mandatory minimum penalty of \$3,000 shall be assessed for each serious violation. California Water Code Section 13385.1(a)(1) provides that a "serious violation" includes "*...a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.*"
3. California Water Code Section 13387(e) provides that any person who knowingly makes any false statement, representation, or certification in any record, report, plan, notice to comply, or other document filed with a regional board or the State Board, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000), or by imprisonment in the state prison for not more than two years, or by both.
4. California Water Code Section 13350 provides that any person who violates WDRs or a provision of the California Water Code is subject to civil liability of up to \$5,000 per day or \$15,000 per day of violation, or when the violation involves the discharge of pollutants, is subject to civil liability of up to \$10 per gallon, or \$20 per gallon; or some combination thereof, depending on the violation, or upon the combination of violations.